

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KIMBERLY SMITH,

Plaintiff,

-against-

PAROLE OFFICER MICHAEL KENNY,
individually and in his official capacity;
PAROLE OFFICER ROBERT ROSENBERG,
individually and in his official capacity;
DIRECTOR BRIGITTE FORTUNE,
individually and in her official capacity;
PAROLE OFFICER JANE DOE, individually;
PAROLE DEPARTMENT SUPERVISOR AND
ADMINISTRATOR JACK DOE, , individually
and in their official capacity; PAROLE
DEPARTMENT SUPERVISORS AND
ADMINISTRATORS JILL DOE I-XIV,
individually and in their official capacity;
PAROLE OFFICER JOHN DOE, individually,

Defendants.

20-CV-1274 (VB)

ORDER OF SERVICE

VINCENT L. BRICCETTI, United States District Judge:

Plaintiff brings this action under 42 U.S.C. § 1983 against defendants Parole Officers Michael Kenny and Robert Rosenberg, Director of Reentry Services Brigitte Fortune, and Jack and Jill Does.

By order dated May 18, 2020, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP). (Doc. #17).

On May 28, 2020, the Court ordered plaintiff to request the issuance of summonses. (Doc. #20).

After numerous requests for the issuance of summonses for the named defendants and Jack and Jill Does (*see, e.g.*, Docs. ##21–24, 29–31, 33–36, 40–47, 51–58) on September 3, 2020, summonses were issued for defendants Michael Kenny, Brigitte Fortune, and Jack and Jill

Does. (Docs. ##68–73). To date, a summons has not been issued for defendant Robert Rosenberg.

DISCUSSION

A. Service on Parole Officer Kenny, Director Fortune, and Jack and Jill Does

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, the Court extended plaintiff’s time to serve the summons and complaint to August 18, 2020. (Doc. #20). Plaintiff amended the complaint (Doc. #59) and the Court extended plaintiff’s time to serve the summons to October 11, 2020. (Doc. #39). If the amended complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App’x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

To allow Plaintiff to effect service on Defendants Parole Officer Michael Kenny, Director of Reentry Services Brigitte Fortune, and Jack and Jill Does through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”). The Clerk of Court is further instructed to issue summonses and

deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon the defendants.

CONCLUSION

The Clerk of Court is instructed to complete the USM-285 forms with the address for Parole Officer Michael Kenny, Director Brigitte Fortune, and Jack and Jill Does and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: September 4, 2020
White Plains, New York

A handwritten signature in black ink, appearing to read "Vincent L. Briccetti", written over a horizontal line.

VINCENT L. BRICCETTI
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Parole Officer Michael P. Kenny
1 Park Place
Peekskill, New York 10566
2. Brigitte Fortune Director of Reentry Services
Building Two
1220 Washington Avenue
Albany, New York 12226
3. Jack Doe and Jill Doe I-XIV, Division Of Reentry Services Supervisors and
Administrators
1 Park Place
Peekskill, New York 10566